IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU**

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**WRIT PETITION NO : 8780 of 1996**

Between:

Federation of Andhra Pradesh Government

Employees Organisations, Rep. By Chairman

G. Pattabhi Ramaiah, S/O Suryanarayana,
Gandhinagar, Eluru, West Godavari Dist.

**..... Petitioner**

And

1. The Hon'ble Chief Minister,

Government of Andhra Pradesh,
Hyderabad and 6 others.

**...RESPONDENTS**

* * *

**ORDER:**

Alleging that their representative G.Pattabhi Ramaiah was humiliated and manhandled in the meeting of the government employees association that took place on 03.03.1994, on the ground that as a

retired employee he cannot represent the petitioner association in that meeting, and that though they made a representation to the Chief Minister (first respondent) to order an enquiry in connection with the said incident, no action is taken thereon, petitioner association filed this petition seeking a writ of Mandamus against the first respondent to dispose of their complaint.

2. The contention of the learned counsel for the petitioner is that since the representative of the petitioner association was manhandled and was humiliated by the representatives of the other associations and some of the officials also, in the premises of the Secretariat, first respondent as chief executive of the state should have taken action on the representation of the petitioner association, when there is a blatant violation of the order dated 29.01.2004 of this Court in W.P.M.P.No.1162 of 1994 in W.P.No.965 of 1994.

3. The contention of the learned Government Pleader is that since the representative of the petitioner association is a retired government employee, and since as per Rule 3(1)(d) of the A.P. Civil Services (Recognition of Service Associations) Rules 1962, no person who is not a Government employee, can represent a service association by preventing a retired employee representing the petitioner association, no irregularity was committed in the meeting.

4. It is well known that when there is no legal or constitutional obligation, which is capable of being enforced, a Mandamus will not issue. In **Cf. Vimla Vs. State of Uttar Pradesh** and in **Munindra Vs. State of Uttar Pradesh** it is held that if an administrative authority who has a discretion to exercise his power, fails to exercise the same, High Court cannot, by issuing a Mandamus, either direct the authority to make an order in exercise of his discretion nor can itself make the administrative order. Whether to pass an order on the representation submitted by the petitioner or not is within the discretion of the first respondent. So, this court cannot issue any direction to the first respondent to pass any orders thereon. If the representative of the petitioner association was manhandled in the

meeting, he has a remedy of proceeding legally against concerned in a court of law. If there is a violation of an order of this court, as contended by the learned counsel for the petitioner, the remedy would have been to file a petition for contempt of court. But they cannot compel the first respondent through an order of this Court to pass some order on their representation.

5. Therefore, the writ petition is dismissed. No costs.

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**C.Y.SOMAYAJULU, J.**

Date: 15th November 2005.

BSB